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the case at bar, it clearly does not keep out all self-serving declarations. If the Roes are rich, and the Smiths are poor, there is an obvious inducement to the Smiths to claim kinship with the Roes even before any controversy arises. The rule which requires connection with both families would certainly discourage a good many unscrupulous claims; but it would equally exclude an admission of relationship with the Smiths by one of the Roes. The great objection to such a rule, however, is that it requires an absurdity. If the plaintiff must show that the declarant Smith is connected with the Roes before the declarations can be admitted, he is in effect compelled to prove his own connection with the Roes in order to get in the very evidence he relies on to establish that connection, — except in such an unusual case as where the individual declarant's declarations might be admissible on the Roe pedigree by reason of the declarant Smith having married into that family. A rule which makes such an impractical requirement is scarcely desirable, and the case at hand is to be welcomed as an added authority against it.

OWNERSHIP IN A PLAN. — In the early law there was considerable dispute among the authorities on the question of ownership in intellectual creations. One view, earnestly advocated by Lord Mansfield, among others, was that intellectual creations were property like other species of property and belonged absolutely to their creator.¹ The other theory was that the producer of an intellectual work had no natural property therein and enjoyed only such rights as the public chose to confer.² The latter theory is the one that has come to prevail in the law today. A late case follows this view in deciding that the originator of a scheme of industrial organization has no right of property in it. *Haskins v. Ryan*, 64 Atl. Rep. 436 (N. J. Eq.).

We may take it as settled that an author, painter, or composer has no common law property right in his mental creation after he has given it to the public, or, in the technical phrase, has "published" it. Any one may reproduce it or use it as he sees fit.³ To be sure, until publication, the creator has over it sole control;⁴ but this control does not depend on any property right in the creation, though doubtless there is in the cases loose language which might lead to that conclusion.⁵ It is universally admitted that a person to whom the author or composer communicates his work may make what use he pleases of the knowledge so gained, except to multiply copies of the work.⁶ This right of "copy" is impliedly reserved by the author in any communication short of publication, and for the recipient of the communication to reproduce the mental creation would be unfair and a breach of confidence.⁶ The creator's right, then, would seem to be not a property right in the creation, but the incorporeal right of "copy."⁷ As regards inventions, there is no doubt that any one who by fair means gains

¹ *Millar v. Taylor*, 4 Burr. 2303, 2399.

² *Donaldson v. Becket*, 2 Bro. P. C. 129.

³ *Keene v. Kimbal*, 16 Gray (Mass.) 545.

⁴ *N. J. State Dental Society v. Dentacura Co.*, 57 N. J. Eq. 593.

⁵ See *Aronson v. Baker*, 43 N. J. Eq. 365; *Grigsby v. Breckinridge*, 2 Bush (Ky.) 480.

⁶ See *Tompkins v. Halleck*, 133 Mass. 32.

⁷ See *Jefferys v. Boosey*, 4 H. L. Cas. 815, 888.

a knowledge of the new idea may, in the absence of a statutory patent, use the knowledge as he wishes, even to the extent of reproducing the invention itself.⁸ There is no property right in such a conception.⁹ Trade secrets are treated the same way, for they are essentially nothing more than plans or schemes. Though equity often enjoins the divulging of them, the reason is always to prevent a breach of trust or confidence, even if the language used appears to indicate a property right in the idea.¹⁰ That there is no such property right is best shown by the fact that if one comes *bona fide* by a knowledge of the secret, he can use it free from interference on the part of the creator.¹¹

Thus, running through the law, is a complete denial of any ownership in any intellectual work as such. Once ideas are communicated, they irrevocably become part of the recipient's mental make-up. They are as much his as the originator's. Once knowledge is acquired, the common law acting *in rem* is powerless to take it away. And if no breach of trust or confidence is involved, no reason is seen why such a possessor of ideas may not use them as well as the creator of them. As the right of property connotes the capability of using or disposing of the subject of property to the exclusion of all others,¹² the result follows that there is none in a plan or scheme.¹³

RECENT CASES.

BANKRUPTCY — GROUNDS FOR REFUSING DISCHARGE — OBTAINING PROPERTY BY FALSE STATEMENT IN WRITING. — A bankrupt, three weeks before filing his voluntary petition in bankruptcy, obtained property on credit by means of a fraudulent written statement as to his solvency. The creditor thus defrauded was, however, fully paid before the bankruptcy proceedings. *Held*, that a creditor other than the defrauded person may successfully plead the fraudulent writing in opposition to the bankrupt's discharge, under the amendment of 1903 to § 14 *b* of the Bankruptcy Act of 1898. *In re Harr*, 143 Fed. Rep. 421 (Dist. Ct., E. D. Mo.).

The provision here involved provides that the bankrupt's discharge may be refused if he has "obtained property on credit from any person upon a materially false statement in writing made to such person for the purpose of obtaining such property on credit." The ground thus furnished for opposing a bankrupt's discharge is a novelty in bankruptcy laws, but the conclusion reached, that a creditor other than the party defrauded may take advantage of the provision, could not be avoided, except by a wholly unwarranted perversion of the language used in the statute. The present case involves the first decision on the point, though the same question has previously been referred to. See *In re Dresser*, 13 Am. B. Rep. 616.

BANKRUPTCY — PRIORITY OF CLAIMS — PRIORITY OF LIENS OVER WAGE-EARNERS' CLAIMS. — The bankrupt, when solvent, assigned to a bank part of the sum to become due on a paving contract. After bankruptcy several unpaid

⁸ *Brown v. Duchesne*, 19 How. (U. S.) 183. See also *Wilson v. Rousseau*, 4 How. (U. S.) 646.

⁹ See *Gillet v. Bate*, 86 N. Y. 87.

¹⁰ *Morrison v. Moat*, 9 Hare 241; *Peabody v. Norfolk*, 98 Mass. 452.

¹¹ *Steward et al. v. Hook et al.*, 118 Ga. 445. See also *James v. James*, L. R. 13 Eq. 421.

¹² See *Rigney v. City of Chicago*, 102 Ill. 64, 77.

¹³ See *Bristol v. Equitable Life Assur. Co.*, 5 N. Y. Supp. 131, aff. 132 N. Y. 264; *Burnell v. Chown*, 69 Fed. Rep. 993; *Simmons Hardware Co. v. Waibel*, 1 S. D. 488.